IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE SIXTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 13464 of 2004

Between:

Mubarak Khan, S/o.Rasool Khan,
R/o.15-160, Pittalwadi, Adilabad.

..... PETITIONER

AND

1 The Govt. of A.P.rep.by its Home Secretary, Home Department,

Secretariat, Hyderabad.
2 The Director General of Police, Hyderabad.
3 The Superintendent of Police, Adilabad.
4 The S.H.O.,I Town, Police Station, Adilabad.
5 The Circle Inspector of Police, Boinpally P.S. Boinpally,

Secunderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more in the nature of writ of Habeas Corpus to produce the father and brothers of the petitioner viz; Rasool khan S/o.Ibrahim Khan, aged 60 yrs R/o.15-160, Pittalwadi, Adilabad (father), Razak Khan S/o.Rasool Khan aged 40 yrs., Occ: Advocate clerk R/o.Bhokthapur, Adilabad; (3) Sadul khan S/o.Rasool Khan, aged 26 yrs., occ: Auto consultancy, R/o.15-160, Pittalwadi, Adilabad; and (4) Sharif Khan S/o.Rasool Khan, aged 24 yrs., Lorry driver, R/o.15-160, Pittalwadi, Adilabad before this Hon'ble court and release them forthwith who

were taken into illegal custody by the 5th respondent with the assistance of 4th respondent on 21-7-2004; 24-7-2004 and 26-7-2004 respectively from their residences situated at Adilabad and also to direct the learned JFCM, Adilabad to cause an enquiry with regard to the truth or other wise of the allegations made by the petitioner in this writ petition and also to direct the respondents 1 and 2 herein to take appropriate legal action against the police officials concerned those who are responsible for illegal arrest and detention of the petitioner's father and brothers and also to direct the respondents to pay a sum of Rs.50,000/- each to the detenus towards compensation for their wrongful confinement by the police.

Counsel for the Petitioner:MR.V.RAVI KIRAN RAO

Counsel for the Respondents: The Advocate General

The Court made the following :

ORAL ORDER: (per the Hon'ble the Chief Justice)

This petition is filed for production of the petitioner's father Rasool Khan and petitioner's brothers Razak Khan, Sadul Khan and Sharif Khan alleging that they have been taken into custody by the fifth respondent with the assistance of the fourth respondent on 21st, 24th and 26th July, 2004.

Affidavit in reply has been filed by Tata Shivaji, Inspector of Police, Bowenpally Police Station, Hyderabad, who states that on 20th July, 2004, a complaint was received from one Samiulla Khan that while he was travelling from Adilabad to Hyderabad with considerable cash in Tata Indica car, the same was intercepted at the Bowenpally Military dairy farm by three persons threatening him with rods and sticks and broke open the wind screen glass of the car and looted the cash. On the basis of the allegations made, Crime No.240 of 2004 for offence punishable under Section 392 IPC was registered. During the course of investigation, two accused were arrested and a sum of Rs.5.30 lakhs was recovered. The other two accused, who happen to be the brothers of the petitioner, are absconding and are not traceable. The Inspector has denied the arrest of the petitioner's father and brothers. It is also submitted that earlier, the petitioner's mother had sent a telegram on the basis of which writ petition No.13020 of 2004 was registered, which was disposed of. The brothers of the petitioner are absconding and the petition appears to have been filed with a view to stall the investigation and arrest of the two brothers of the petitioner and recovery of cash.

Since the petitioner's father and brothers are not arrested or under detention and there is no restraint on their movements, no direction deserves to be issued in this petition, which is dismissed with liberty reserved to the petitioner to take out appropriate proceedings in case he is having any other grievance.

_____

DEVINDER GUPTA, CJ

6-8-2004

_____

C.V.RAMULU, J

tvr

To

1 The Home Secretary, Govt. of A.P., Home Department,

Secretariat, Hyderabad.
2 The Director General of Police, Hyderabad.
3 The Superintendent of Police, Adilabad.
4 The S.H.O.,I Town, Police Station, Adilabad.
5 The Circle Inspector of Police, Boinpally P.S. Boinpally,

Secunderabad.

6. 2 CCs to the Advocate General, High Court Buildings, Hyderabad (OUT).

7. 2 CD copies.